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NEGOTIATED CONTRACT

Contract No. *HF 20-80*

The Perkin-Elmer Corporation
Main Avenue
Norwalk, Connecticut

25X1A

CONTRACT FOR: Contract Work (see Schedule)

Amount:

Mail Invoices to:

Performance Period/Delivery
Schedule:

Inspection Point:

Administrative Data:

This contract is entered into, by and between the United States of America, hereinafter called the Government, represented by the Contracting Officer executing this contract, and the above-named Contractor which is a Corporation, incorporated in the State of New York, hereinafter called the Contractor.

The parties hereto agree that the Contractor shall furnish the facilities and deliver all supplies and perform all the services set forth in the attached schedule issued hereunder, for the consideration stated therein.

The rights and obligations of the parties to this contract shall be subject to and governed by the attached schedule and General Provisions. In the event of any inconsistency between the schedule and the General Provisions, the schedule shall control.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of SIXTH AUGUST, 1956

Signatures:

The Perkin-Elmer Corporation

The United States of America

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I, _____, certify that I am

the [redacted] of the Corporation named

as Contractor herein; that [redacted] who

signed this contract on behalf of the Contractor was then _____

of said Corporation; that said contract was duly

signed for and in behalf of said Corporation by authority of its

governing body, and is within the scope of its Corporate powers.

Corporate Seal

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SCHEDULE

SECTION A - PRICE AND PAYMENTS

In consideration of the Contractor's performance of the contract work, the total price of this contract, subject to the provisions of the section of this Schedule entitled "Price Redetermination," is the price set forth in the attached Appendix I, such Appendix I being a part of the Schedule under this contract. Payments under this contract shall be made in accordance with the applicable payment clause of the General Provisions. Unless otherwise stated, all prices are F.O.B. Bakersfield, California.

SECTION B - CONTRACT WORK

The listing of articles and services to be furnished by the Contractor to the Government and a description of the contract items and specifications in connection therewith are contained in Appendix I hereto. The aforementioned listing, as from time to time revised pursuant to the Changes clause of the General Provisions, shall constitute the contract work to be performed hereunder by the Contractor.

SECTION C - DELIVERY

The Contractor shall perform the services and shall deliver to the Government the articles and items stipulated herein as soon as is practicable, with due attention to the schedule of deliveries as set forth in Appendix I hereto. Whenever the Contractor shall determine that the schedule of deliveries set forth in Appendix I cannot be met due to circumstances beyond the control of the Contractor, or for other good and valid reasons, the Contractor shall immediately so notify the Contracting Officer in order that action appropriate to the circumstances may be taken.

SECTION D - REPORTS

Reports to be furnished by the Contractor to the Government in connection with the contract work are as follows:

1. Interim Reports:

A brief monthly report indicating the state of the production called for by this contract as of the end of each calendar month; and a monthly projection of the anticipated dates of completion and delivery of the end items called for by this contract.

2. Final Reports:

(a) Final Technical Report

A final technical report upon completion of the contract work which will be a revision of the pertinent sections of the report furnished under Section D 2 (a) of Contract SC-21-54.

(b) Final Fiscal Report

A final fiscal report in accordance with the requirements of the section of this Schedule entitled "Price Redetermination."

3. Other Reports

Such other reports as are required from time to time or required prior to final payment hereunder by the General Provisions of this contract, by other sections of this Schedule, or by Appendices or Exhibits which are a part of this Schedule.

SECTION E - WAIVER OF REQUIREMENTS OF GENERAL PROVISIONS

Notwithstanding the requirements of any of the General Provisions of this contract to the contrary, whenever the Contractor, in performance of the work under this contract, shall find that the requirements of any of the clauses of the General Provisions are in conflict with security instructions issued to the Contractor by the Contracting Officer or by his duly authorized representative for security matters, the Contractor shall call the attention of the Contracting Officer to such conflict and the Contracting Officer or his duly authorized representative for security matters shall (i) modify or rescind such security requirements or (ii) the Contracting Officer shall issue to the Contractor a waiver of compliance with the requirements of the General Provisions conflicting with such security requirements. Any waiver of compliance with the General Provisions of this contract issued by the Contracting Officer shall be in writing, except that the approval by the Contracting Officer of any subcontract issued hereunder by the Contractor shall be deemed to constitute approval of waiver of any clauses of the General provisions in conflict with the stipulations of such subcontract.

SECTION F - SPECIAL SECURITY RESTRICTIONS

The Contractor shall not reveal (i) the specific nature or any details of the work being performed hereunder or (ii) any information whatsoever with respect to the department of the Government sponsoring this contract and the work thereunder except as the Contractor is directed or permitted to reveal such information by the Contracting Officer or by his duly authorized representative for security matters, and notwithstanding any clause or section

of this contract to the contrary. The Contractor shall not interpret any clause or section of this contract as requiring or permitting divulgence of such information to any person, public or private, or to any officer or department of the Government without the express consent of the Contracting Officer or his duly authorized representative for security matters.

SECTION G - LETTER OF INTENT SUPERSEDED

This is the Definitive Contract contemplated by the Letter of Intent issued by the Government to the Contractor under date of 1 May 1956, and supersedes said Letter of Intent. Work performed and payments made under said Letter of Intent shall be deemed to be work performed and payments made under this Definitive Contract. The date of the Letter of Intent shall govern for the determination of the priority status of this Definitive Contract. In the event of conflict between this Definitive Contract and said Letter of Intent, this Definitive Contract shall prevail.

SECTION H - COLLATERAL COMMERCIAL CONTRACTUAL MECHANISMS

The Government may, from time to time, for reasons of security, issue to the Contractor collateral commercial contractual documents, such as commercial forms of purchase orders, or other authorizing documents, and the Government may make payment hereunder in normal commercial manner, or may make other arrangements with the Contractor utilizing standard commercial mechanisms, with appropriate notations to identify this contract with such collateral commercial contractual mechanisms. The Government warrants that any such commercial mechanisms issued to the Contractor will be within the scope of this contract and expenditures, obligations or commitments incurred by the Contractor by reason of such commercial mechanisms will be considered expenditures, obligations or commitments under this contract. The Contractor shall not identify such commercial mechanisms with this contract in its records or files and shall follow the instructions of the Contracting Officer or his duly authorized representative for security matters with respect to maintaining the individuality of the collateral commercial contractual mechanisms and the individuality of this contract.

SECTION I - GOVERNMENT-FURNISHED PROPERTY LISTINGS

In accordance with the clause of the General Provisions entitled "Government-Furnished Property," the Government may from time to time furnish to the Contractor various items of equipment for use in performance of this contract. Exhibit I hereto is a part of this Schedule and consists of a listing of Government-furnished property, equipment, supplies, or other material (i) furnished by the Government to the Contractor, (ii) returned by the Contractor to the Government, or (iii) still in possession of the Contractor. The Contractor shall maintain such Exhibit I current and up to date and shall periodically

submit to the Contracting Officer revisions of such Exhibit I to reflect the revised status of Government-furnished items in possession of the Contractor. The Contractor shall account for all such items furnished to the Contractor at the conclusion of this contract.

SECTION J - INSPECTION AND ACCEPTANCE and CORRECTION OF DEFECTS

(a) Inspection and acceptance of the supplies and services called for herein, shall be made by the Government at the Contractor's plant, Norwalk, Connecticut, with respect to any items fabricated and/or assembled and packed as individual or integral units at the Contractor's plant. With respect to items fabricated and/or assembled and packed as individual or integral units at subcontractor's plants, the point of inspection and acceptance shall be at the plant of such subcontractor.

(b) In the event it becomes impracticable for the Government to perform inspection and acceptance at Contractor's or subcontractor's plants, Contractor may deliver, and the Government will accept the supplies and/or services called for herein and at the times specified herein provided they are accompanied by a certificate signed by an officer of the Contractor company that said supplies and/or services meet all the requirements of the contract. For purposes of payment, Contractor shall be entitled to the contract price of such items upon delivery. At any time during performance of this contract, but not later than six (6) months after such delivery and acceptance, if inspection of the supplies by the Government reveals any defectiveness in material or workmanship or otherwise not in conformity with the requirements of this contract, the Contractor, if so directed by the Contracting Officer shall correct such deficiencies at no increase or decrease in contract price except as provided in the clause hereof entitled "PRICE REDETERMINATION."

SECTION K - PACKING OF ITEMS DELIVERED

The items delivered under this contract shall be packed for domestic shipment in accordance with standard commercial practices, except as otherwise specified in Appendix I hereto.

SECTION L - PRICE REDETERMINATION

ILLEGIB 1. Because of the experimental and developmental nature of the work called for by this contract and the great uncertainty as to the cost of performance hereunder, the parties agree that the contract price ILLEGIB

[REDACTED]

3. Within 60 days after the completion or termination of this contract, the Contractor will file with the Contracting Officer a statement, in such form and detail as the Contracting Officer may prescribe, of the Contractor's cost of producing the supplies or furnishing the services called for hereunder, together with such other information as may be pertinent in the negotiations for a revised final contract price. Such statement of cost shall fairly reflect the normal operation of the Contractor's cost system. The Contracting Officer shall have the right at all reasonable times to make or cause to be made such examinations and audits of the Contractor's books, records, and accounts as he may request.

4. Upon the filing of the statement and other pertinent information required by subsection 3., above, the Contractor and the Contracting Officer will promptly negotiate in good faith to agree upon a reasonable revised price for the entire contract which, upon the basis of such statement and other pertinent information and the following incentive formula, will constitute fair and just compensation to the Contractor for the performance of this contract:

(a) In the event that the Contractor's actual costs of producing the supplies and furnishing the services hereunder are less than the contract target costs set forth in subsection 2. above, the revised price shall be the sum of such actual costs, plus 20% of the amount by which such actual costs are less than the contract target costs, plus the contract target profit set forth in subsection 2 above; provided, however, that in no event shall such revised price exceed such actual costs plus 12% of the contract target costs.

(b) In the event that the Contractor's actual costs are equal to or exceed the contract target costs, the revised price shall equal the contract target price set forth in subsection 2., above.

The revised price shall be evidenced by an amendment to this contract.

5. If, within 60 days after the filing of the statement and the furnishing of the other pertinent information required by subsection 3., above, the parties shall fail to agree upon a revised final price in accordance with the provisions of this Section L, the failure to agree shall be deemed to be a disagreement as to a question of fact which shall be disposed of in accordance with the clause of the contract entitled "Disputes".

6. Pending any revision of the contract costs pursuant to the provisions of this Section L, the Contractor may bill and receive payment in accordance with the item prices stated in Appendix I, upon delivery of any article or completion of any service called for therein. In addition, the Contractor may bill for progress payments hereunder, in accordance with the clause of this contract entitled "Progress Payments". provided billings hereunder are specific as to items hereunder which are being billed on a billing price basis and items, or phases, which are being billed on a progress payment basis.

7. If the final revised contract price is less than the aggregate of such billing prices, provisions shall be made for prompt reimbursement by the Contractor to the Government of the amount of deficiency. The total amount so payable and the method of payment shall be set forth in an amendment to this contract.

8. For any purposes of the clause of this contract providing for termination at the option or convenience of the Government (including without limitation, computation of "the total contract price" and "the contract price of work not terminated"), the contract price shall be the revised contract price agreed upon under subsection 4, of this Section L, or determined under subsection 5, of this Section L, as the case may be, with the repricing formula appropriately adjusted in the light of work performed to the time of termination.

9. The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this contract, in accordance with generally accepted commercial accounting principles and practices, and to the extent and in detail as is necessary for establishment of costs applicable to items of this contract subject to price revision. The Contractor shall segregate the costs of any item, charge, or service, the price of which is fixed and not subject to revision in accordance with the provisions of this Section L.

APPENDIX I

/List here the articles, services and supplies to be furnished, with descriptions and specifications, price or prices, and delivery schedule. Include by reference any existing collateral specifications or descriptions of the work to be performed./

See Annex # 4, dated 4-2-58 for additional items. Ee

APPENDIX I

Items to be furnished by Contractor.

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The Contractor will be paid a total price of [REDACTED], subject to the provisions of Section L of this Schedule, entitled "Price Redetermination," for performance of the services and furnishing the supplies set forth under Items 1 - 30.

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GENERAL PROVISIONS

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The Term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons on board (other than the Contracting Officer) authorized to act for the Secretary; and the term "Department" means that component of the Government having cognizance of this contract and represented by the Contracting Officer executing this contract.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "sub-contracts" includes purchase orders under this contract.

(d) The term "contract work" means all work to be performed under this contract including any studies covering fundamental, theoretical, or experimental investigations; any extension of the investigative findings and theories of a scientific and technical nature into practical application; any tangible items, hereinafter referred to as supplies, if called for herein, furnished to the Government; and any reports, data, computations, plans, drawings, and specifications with respect to the foregoing.

2. CHANGES

The Contracting Officer may, at any time, by a written order, and without notice to the sureties, if any, make changes in or additions to drawings or specifications, issue additional instructions, require modified or additional work or services within the general scope of the contract, change the place of delivery or method of shipment, or the amount of Government furnished property. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable adjustment shall be made in the contract price, or time of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within sixty (60) days from receipt by the Contractor of the notification of change: PROVIDED, HOWEVER, That the Contracting Officer, if he decides that the facts justify such action may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

3. EXTRAS

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

4. INSPECTION

All services, material and workmanship shall be subject to inspection and test by representatives of the Government. For this purpose, the Contractor shall allow at all reasonable times, to the extent approved in writing by the Contracting Officer or his duly authorized representative, inspectors and other Government personnel free access to the plant and operations and shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties.

5. RESPONSIBILITY FOR CONTRACT WORK

Except as otherwise provided in this contract, (i) the Contractor shall be responsible for the contract work until it is delivered at the designated delivery point, regardless of the point of inspection; and (ii) the Contractor shall bear all risks as to rejected work after notice of rejection.

6. PAYMENTS

The Contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for contract work delivered and accepted, less deduction, if any, as herein provided. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either \$1,000 or 50 percent of the total amount of this contract.

7. PROGRESS PAYMENTS

(a) Progress payments, which are hereby defined as payments prior to acceptance, on contract work in progress for the Government under this contract, may be made upon the following terms and conditions.

(b) The Contracting Officer may, from time to time, authorize progress payment to the Contractor upon property acquired or produced and services performed by it for the performance of this contract: PROVIDED, That such progress payment shall not exceed the cost to the Contractor of the property and services upon which payment is made, which costs shall be determined from evidence submitted by the Contractor and which must be such as is satisfactory to the Contracting Officer; and PROVIDED FURTHER, That in no event shall the total of unliquidated progress payments (see (c) below) and of unliquidated advance payments, if any, made under this contract, exceed 90 percent of the total contract price of supplies or services still to be delivered.

(c) Upon the making of any progress payments under this contract, title to all parts, materials, inventories, work in progress, and non-durable tools theretofore acquired or produced by the Contractor for the performance of this contract and properly chargeable thereto under sound accounting practice shall vest in the Government: PROVIDED, That nothing herein shall deprive the Contractor of any further progress or final payments due or to become due hereunder; or relieve the Contractor or the Government of any of their respective rights or obligations under this contract.

(d) The Contractor represents and warrants that the property, upon which any progress payment is made hereunder, shall be cleared of all liens and incumbrances of any kind whatsoever upon receipt of any progress payment.

(e) In making payment for the supplies furnished hereunder there shall be deducted from the contract price therefor a proportionate amount of the progress payments theretofore made to the Contractor, under the authority herein contained.

(f) It is recognized that property (including, without limitation, completed supplies, spare parts, drawings, information, partially completed supplies, work in progress, materials, fabricated parts and other things called for herein) title to which is or may hereafter become vested in the Government pursuant to this clause will from time to time be used by or put in the care, custody or possession of the Contractor in connection with the performance of this contract. The Contractor, either before or after receipt of Notice of Termination at the option of the Government, may acquire or dispose of property to which title is vested in the Government under this clause, upon terms approved by the Contracting Officer; PROVIDED, That after receipt of Notice of Termination, any such property that is a part of termination inventory may be acquired or disposed of only in accordance with the provisions of the termination clause of this contract and applicable laws and regulations. The agreed price (in case of acquisition by the Contractor) or the proceeds received by the Contractor (in case of other disposition), shall, to the extent that such price and proceeds do not exceed the unliquidated balance of progress payments hereunder, be paid or credited to the Government as the Contracting Officer shall direct; and such unliquidated balance shall be reduced accordingly. Current production scrap may be sold by the Contractor without approval of the Contracting Officer but the proceeds will be applied as provided in this paragraph (f), provided that any such scrap which is a part of termination inventory may be sold only in accordance with the provisions of the termination clause of this contract and applicable laws and regulations. Upon liquidation of all progress payments hereunder or upon completion of deliveries called for by this contract, title to all property (or the proceeds thereof) which has not been delivered to and accepted by the Government under this contract or which has not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has been vested in the Government under this clause shall vest in the Contractor.

(g) The provisions of this contract referring to "Liability for Government-Furnished Property" and any other provisions of this contract defining liability for Government-furnished property shall be inapplicable to property to which the Government shall have acquired title solely by

virtue of the provisions of this clause. The provisions of this clause shall not relieve the Contractor from risk of loss or destruction or damage to property to which title vests in the Government under the provisions hereof.

(h) If this contract (as heretofore or hereafter supplemented or amended) contains provisions for advance payments, and in addition if at the time any progress payment is to be made to the Contractor under the provisions of this progress payments clause any unliquidated balance of advance payments is outstanding, then notwithstanding any other provisions of the Advance Payments clause of this contract the net amount, after appropriate deduction for liquidation of the advance payment, of such progress payment shall be deposited in the special bank account or accounts maintained as required by the provisions of the Advance Payments clause, and shall thereafter be withdrawn only pursuant to such provisions.

8. ASSIGNMENT OF CLAIMS

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940 as amended (31 U. S. Code 203, 41 U. S. Code 15), if this contract provides for payments aggregating \$1,000 or more, claims for moneys due or to become due to the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party or agent or trustee for two or more parties participating in such financing. Notwithstanding any other provision of this contract, payment to an assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act as amended, be subject to reduction or set-off.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "TOP SECRET," "SECRET," "CONFIDENTIAL," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same; PROVIDED, That a copy or any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

(c) The Contractor shall obtain the written authorization of the Contracting Officer prior to the assignment of any rights under this contract.

9. FEDERAL, STATE AND LOCAL TAXES

(a) DEFINITIONS. As used throughout this clause, the following terms shall have the meanings set forth below:

(i) The term "direct tax" means any tax or duty directly applicable to the completed supplies or services (as distinguished from taxes directly applicable to materials and components used in the manufacture or furnishing of the completed supplies or services) covered by this contract or any other tax or duty from which the Contractor or this transaction is exempt. It includes any tax or duty directly applicable to the importation, production, processing, manufacture, construction, sale, or use of such supplies or services; it also includes any tax levied on, with respect to, or measured by sales, receipts from sales, or use of the supplies or services covered by this contract. The term does not include transportation taxes, unemployment compensation taxes, social security taxes, income taxes, excess-profits taxes, capital stock taxes, property taxes, and such other taxes as are not within the definition of the term "direct tax" as set forth above in this paragraph.

(ii) The term "contract date" means the effective date of this contract. For the purpose of any additional procurement of supplies or services called for by any agreement supplemental hereto, the term "contract date" shall refer to the date of such supplemental agreement.

(b) **FEDERAL, STATE AND LOCAL TAXES.** Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State and local direct taxes in effect on the contract date.

(c) **PRICE ADJUSTMENT.** If, after the contract date, the Federal Government or any State or local government either imposes or increases (or removes an exemption with respect to) any direct tax or any tax directly applicable to the materials or components used in the manufacture or furnishing of the completed supplies or services covered by this contract, the contract price shall be correspondingly increased, and if interest and penalties are incurred by reason of delay in payment of such tax on the instruction of the Contracting Officer, and such interest and penalties are legally imposed, the contract price shall be correspondingly increased. If, after the contract date, the Contractor is relieved in whole or in part from the payment or the burden of any direct tax included in the contract price, or any tax directly applicable to the materials or components used in the manufacture or furnishing of the completed supplies or services covered by this contract, the Contractor agrees promptly to notify the Contracting Office of such relief, and the contract price shall be correspondingly decreased or the amount of such relief paid over to the Government. Invoices or vouchers covering any increase or decrease in contract price pursuant to the provisions of this paragraph shall state the amount thereof, as a separate added or deducted item, and shall identify the particular tax imposed, increased, eliminated or decreased.

(d) **REFUND OR DRAWBACK.** If any tax or duty has been included in the contract price or the price as adjusted under paragraph (c) of this clause, and if the Contractor is entitled to a refund or drawback by reason of the export or re-export of supplies covered by this contract, or of materials or components used in the manufacture or furnishing of the completed supplies or services covered by this contract, the Contractor agrees that he will promptly notify the Contracting Officer thereof and that the amount of any such refund or drawback obtained will be paid over to the Government or credited against amounts due from the Government under this contract; **PROVIDED, HOWEVER,** That the Contractor shall not be required to apply for such refund or drawback unless so requested by the Contracting Officer.

10. **DEFAULT**

(a) The Government may, subject to the provisions of paragraph (b) below, by written Notice of Default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(i) If the Contractor fails to make delivery of, or to perform, the contract work within the time specified herein or any extension thereof; or

(ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) The Contractor shall not be liable for any excess costs if any failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes include, but are not restricted to, acts of God or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and defaults of subcontractors due to any of such causes unless the Contracting Officer shall determine that the contract work to be furnished by the subcontractor was obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(c) In the event the Government terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Government may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, contract work similar to that so terminated and the Contractor shall be liable to the Government for any excess costs for such similar contract work; **PROVIDED,** That the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the Government, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the Government, in the manner and to the extent directed by the Contracting Officer, (i) any completed contract work, and (ii) such partially completed contract work and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "Manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the Government has an interest. The Government shall pay to the Contractor the contract price for completed contract work delivered to and accepted by the Government and the amount agreed upon by the Contractor and the Contracting Officer for manufacturing materials delivered to and accepted by the Government and for the protection and preservation of property. Failure to agree shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".

(e) If, after notice of termination of this contract under the provisions of paragraph (a) of this clause, it is determined that the failure to perform this contract is due to causes beyond the control and without the fault of negligence of the Contractor pursuant to the provisions of paragraph (b) of this clause, such Notice of Default shall be deemed to have been issued pursuant to the clause of this contract entitled "Termination for Convenience of the Government," and the rights and obligations of the parties hereto shall in such event be governed by such clause.

(f) If the Contractor will be unable to complete the contract work and make delivery at the time specified in the schedule, it may give the Contracting Officer written notice of the anticipated default with the reasons therefor, provided such notice is given not less than forty-five (45) days before the completion date specified in the schedule or within such time as the Contracting Officer deems sufficient. If such notice is duly given, then, to the extent the interest of the Government makes an extension desirable, the Contracting Officer may, in his discretion, extend the period of time specified in the schedule for such period as he deems advisable, and this contract shall then be modified in writing accordingly.

11. DISPUTES

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within thirty (30) days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the

decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive; PROVIDED, That, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

12. NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT

(a) If the amount of this contract is in excess of \$5,000, the Contractor agrees to report to the Contracting Officer, promptly and in reasonable written detail, each claim of patent infringement based on the performance of this contract and asserted against it, or against any of its subcontractors if it has notice thereof.

(b) In the event of litigation against the Government on account of any claim of infringement arising out of the performance of this contract or out of the use of any supplies furnished or construction work performed hereunder, the Contractor agrees that it will furnish to the Government, upon request, all evidence and information in its possession pertaining to the defense of such litigation. Such information shall be furnished at the expense of the Government except in those cases in which the Contractor has agreed to indemnify the Government against the claim being asserted.

13. BUY AMERICAN ACT

The Contractor agrees that there will be delivered under this contract only such unmanufactured articles, materials and supplies (which term "articles, materials and supplies" is hereinafter referred to in this clause as "supplies") as have been mined or produced in the United States, and only such manufactured supplies as have been manufactured in the United States substantially all from supplies mined, produced or manufactured, as the case may be, in the United States. Pursuant to the Buy American Act (41 U. S. Code 102-d), the foregoing provision shall not apply (i) with respect to supplies excepted by the Secretary from the application of that Act, (ii) with respect to supplies for use outside the United States, or (iii) with respect to the supplies to be delivered under this contract which are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) with respect to such supplies from which the supplies to be delivered under this Contract are manufactured, as are of a class or kind, determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; PROVIDED, That this exception (iv) shall not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

14. CONVICT LABOR

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

15. EIGHT-HOUR LAW OF 1912

This contract, to the extent that it is of a character specified in the Eight-Hour Law of 1912 as amended (40 U. S. Code 324-326) and is not covered by the Walsh-Healey Public Contracts Act (41 U. S. Code 35-45), is subject to the following provisions and exceptions of said Eight-Hour Law of 1912 as amended, and to all other provisions and exceptions of said Law:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every such laborer and mechanic employed by the Contractor shall be computed on a basic day rate of eight hours per day; and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed upon the Contractor for each such laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this clause; and all penalties thus imposed shall be withheld for the use and benefit of the Government.

16. WALSH-HEALEY PUBLIC CONTRACTS ACT

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act as amended (41 U. S. Code 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect, except that the Contractor shall not be required to include this clause in subcontracts issued hereunder when the inclusion of this clause in a subcontract would jeopardize or conflict with the security considerations established in connection with this contract.

17. NONDISCRIMINATION IN EMPLOYMENT

(a) In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin.

The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of the nondiscrimination clause.

(b) The Contractor further agrees to insert the foregoing provision in subcontracts issued hereunder, except subcontracts for standard commercial supplies or raw materials, and except as insertion of the foregoing provision in a subcontract would jeopardize or conflict with the security considerations established in connection with this contract.

18. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

19. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

20. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interests of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall (1) stop work under the contract on the date and to the extent specified in the Notice of Termination; (2) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination; (4) assign to the Government

in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts; (5) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause; (6) transfer title and deliver to the Government, in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the Government; (7) use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in provision (6) of this paragraph, PROVIDED, HOWEVER, That the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and PROVIDED FURTHER That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct; (8) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and (9) take such action as may be necessary or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire any interest. At any time after expiration of the plant clearance period, as defined in Section VIII, Armed Services Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same PROVIDED That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer the termination claim, in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than two years from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such two-year period or authorized extension thereof.

However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such two-year period or any extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination, and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of contract work pursuant to this clause, the Contracting Officer shall determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amounts determined as follows:

- (1) For completed supplies accepted by the Government (or sold or acquired as provided in paragraph (b) (7) above) and not theretofore paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;
- (2) The total of--
 - (i) The costs incurred in the performance of the contract work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies paid or to be paid for under paragraph (a) (1) hereof;
 - (ii) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b) (5) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (i) above; and

(iii) An allowance for profit in keeping with the provisions of Section I, "Price Redetermination," of the Schedule Hereto.

- (3) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this contract.

The total sum to be paid to the Contractor under (1) and (2) of this paragraph (e) shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in paragraph (e) (1) and paragraph (e) (2) (i), the fair value, as determined by the Contracting Officer, of property which is destroyed, lost stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b) (7).

(f) Determination of costs under paragraph (c) or (e) hereof shall be in accordance with generally accepted accounting practices and principles.

(g) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraphs (c) and (e) above, except that if the Contractor has failed to submit its claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause, there shall be deducted (1) all unliquidated advance or other unliquidated payments on account theretofore made to the Contractor, (2) any claim which the Government may have against the Contractor in connection with this contract, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Government.

(i) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 5% per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government. PROVIDED, HOWEVER, That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of six (6) years after final settlements under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all its books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

21. SUBCONTRACTS

(a) No contract shall be made by the Contractor with any other party for furnishing any of the completed or substantially completed articles, spare parts or work, herein contracted for, without the written approval of the Contracting Officer as to sources.

(b) The Contractor shall give specific advance notification to the Contracting Officer of any proposed subcontract hereunder which (1) is on a cost or cost-plus-a-fixed-fee basis, or (2) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total amount of this contract.

(c) The Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which (1) is on a cost or cost-plus-a-fixed-fee basis, or (2) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total amount of this contract, or (3) provides for the fabrication, purchase, rental, installation or other acquisition, of any item of industrial facilities, or of special tooling having a value in excess of \$1,000, or (4) is on a time-and-material or labor-hour basis. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(d) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the acceptability of the subcontract price, unless such approval specifically provides that it constitutes a determination of the acceptability of the subcontract price.

(f) The Contracting Officer may approve all or any part of the Contractor's purchasing system and from time to time rescind or reinstate such approval. Such approval shall be deemed to fulfill the requirements for obtaining the Contracting Officer's consent to subcontracts as prescribed in paragraph (c) above.

22. INSPECTION AND AUDIT

(a) The Contractor agrees that its books and records and its plants, or such part thereof as may be engaged in the performance of this contract, shall at all reasonable times be subject to inspection and audit when and to the extent authorized by the Contracting Officer.

(b) The Contractor agrees to include in each of his subcontracts hereunder which is on a cost or cost-plus-a-fixed-fee or a price redetermination basis, or on a time-and-material or labor-hour basis, provision for audit of such subcontracts by the Contractor. The Contractor shall conduct an audit of any such subcontract when requested to do so by the Contracting Officer.

23. AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any patented invention in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

24. GRATUITIES

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of such contract; PROVIDED, That the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in

an amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

25. GOVERNMENT-FURNISHED PROPERTY

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property which the schedule, appendix, or the specifications state the Government will furnish (hereinafter referred to as "Government-Furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-Furnished property of a type suitable for use will be delivered to the Contractor at the times stated in the Schedule or if not so stated in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-Furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, if requested by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall grant to the Contractor a reasonable extension of time in respect of such delivery or performance dates. The Government shall not be liable to the Contractor for damages or loss of profit by reason of any delay in delivery of or failure to deliver any or all of the Government-Furnished property, except that in case of such delay or failure, upon the written request of the Contractor, an equitable adjustment shall be made in the delivery or performance dates, or price, or both, or in any other contractual provision affected thereby, in accordance with the procedures provided for in the clause of the contract entitled "Changes."

(b) By notice in writing the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, upon the written request of the Contractor, an equitable adjustment shall be made in the delivery or performance dates, or price, or both, and in any other contractual provision affected by such decrease, in accordance with the procedures provided for in the clause of this contract entitled "Changes."

(c) Title to the Government-Furnished property shall remain in the Government. Title to Government-Furnished Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-Furnished property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(d) The Government-Furnished property shall, unless otherwise provided herein, be used only for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, repair, protection and preservation of Government-Furnished property, until disposed of by the Contractor in accordance with this clause. In the event that damaged or defective Government-Furnished property is delivered to the Contractor, or any other damage occurs to Government-Furnished property, the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs; PROVIDED, HOWEVER, That if the Contractor cannot effect such repair within the time required, the Contractor may reject such property. The contract price includes no compensation to the Contractor for the performance or any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in the contract price for any such repair or replacement of Government-Furnished property made at the direction of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at its own expense.

(f) (1) Except for loss, destruction or damage resulting from a failure of the Contractor due to willful misconduct or lack of good faith of any of the Contractor's managerial personnel as defined herein, to maintain and administer the program for the maintenance, repair, protection and preservation of the Government-Furnished property, as required by paragraph (e) hereof, and except as specifically provided in this contract, the Contractor shall not be liable for loss or destruction of or damage to the Government-Furnished property (A) caused by any peril while the property is in transit off the Contractor's premises, or (B) caused by any of the following perils while the property is on the Contractor's or subcontractor's premises, or on any other premises where such property may properly be located, or by removal therefrom because of any of the following perils:

(I) Fire; lightning; windstorm, cyclone, tornado; hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; sabotage; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the Contractor or any agent or employee of the Contractor; smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of a body of water; hostile or warlike action, including action in hindering, combating, or defending against an actual, impending or expected attack by any government or sovereign power (de jure or de facto), or by any authority using military, naval, or air forces, or by an agent of any such government, power, authority, or forces; or

(II) Other peril, of a type not listed above, if such other peril is customarily covered by insurance (or by a reserve for self-insurance) in accordance with the normal practice of the Contractor, or the prevailing practice in the industry in which the Contractor is engaged with respect to similar property in the same general locale.

The perils as set forth in (A) and (B) above are hereinafter called "excepted perils."

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The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of (I) all or substantially all of the Contractor's business; (II) all or substantially all of the Contractor's operation at any one plant or separate location at which the contract is being performed; (III) a separate and complete major industrial operation in connection with the performance of this contract.

(ii) The Contractor represents that it is not including in the price hereunder, and agrees that it will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves covering loss or destruction of or damage to the Government-Furnished property caused by any excepted peril). PERIL

(iii) Upon the happening of loss or destruction of or damage to any Government-Furnished property caused by an excepted peril, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has directed that no such organization be employed), shall take all reasonable steps to protect the Government-Furnished property from further damage, separate the damaged and undamaged Government-Furnished property in the best possible order, and furnish to the Contracting Officer a statement of: (A) the lost, destroyed and damaged Government-Furnished property, (B) the time and origin of the loss, destruction or damage, (C) all known interests in commingled property of which the Government-Furnished property is a part, and (D) the insurance, if any, covering any part of or interest in such commingled property. The Contractor shall be reimbursed for the expenditures made by it in performing its obligations under this subparagraph (iii) (including charges made to the Contractor by the Loss and Salvage Organization, except any of such charges the payment of which the Government has, at its option, assumed directly), to the extent approved by the Contracting Officer and set forth in a Supplemental Agreement.'

(iv) With the approval of the Contracting Officer after loss or destruction of or damage to Government-Furnished property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government-Furnished property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(v) Except to the extent of any loss or destruction of or damage to Government-Furnished property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government-Furnished property in accordance with the provisions of this contract, the Government-Furnished property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (e) above.

(vi) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government-Furnished Property, caused by an excepted peril, it shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction, or damage and, upon the request of the Contracting Officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(g) The Contracting Officer or his duly authorized representative shall at all reasonable times have access to the premises wherein any Government-Furnished property is located.

(h) Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government-Furnished property not consumed in the performance of this contract (including any resulting scrap), or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government-Furnished property, as may be directed or authorized by the Contracting Officer. Recoverable scrap from Government-Furnished property shall be reported in accordance with a procedure and in such form as the Contracting Officer may direct. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

(i) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

26. REPORTING OF ROYALTIES

The provisions of this clause shall be applicable only if the amount of the contract is in excess of \$10,000.

(a) The Contractor shall report in writing (in quadruplicate) to the Contracting Officer as soon as practicable after execution of this contract whether or not any royalties in excess of \$250 have been paid or are to be paid by the Contractor directly to any person or firm in connection with the performance of this contract. If royalties in excess of \$250 have been paid or are to be paid to any person or firm, this report shall include the following items of information with respect to such royalties (including the initial \$250):

- (1) The name and address of each licensor to whom royalties in excess of \$250 have been paid or are to be paid,
- (2) The patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties,
- (3) The manner of computing the royalties consisting of (i) a brief identification of each royalty-bearing unit or process, (ii) the total amount of royalties, and (iii) the percentage rate or dollars and cents amount of royalties on each such unit or process; PROVIDED that if the royalties cannot be computed in terms of units or dollars and cents value, then other data showing the manner in which the Contractor computes the royalties.

(b) In lieu of furnishing a report under paragraph (a), the Contractor may furnish a single, consolidated report for each accounting period of the Contractor during which the Contractor has contracts with the Government, provided the Contractor has requested and obtained the prior written approval of the Contracting Officer. Such consolidated report shall be furnished, when the furnishing thereof has been approved, in the number of copies as approved, as soon as practicable after the close of the accounting period covered by the report. Such consolidated report shall be made in accordance with Contractor's established accounting practice and shall include, for the accounting period, the total amount of royalties accruing to each licensor at a rate in excess of \$1,000 per annum on the Contractor's over-all business, together with (i) the name and address of each such licensor, (ii) the patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties, (iii) a brief description of the subject matter of the license under which royalties are charged, (iv) the percentage rate or unit amount, or if the royalties do not accrue by rate or unit amount, such other data showing the manner by which the royalties accrue to licensor, and (v) an estimate or approximation (without detailed accounting) of the portion of such royalties that may be attributable to Government contracts. The Contractor shall, if requested by the Government, furnish at Government expense a more detailed allocation of such royalty payments attributable to Government contracts.

(c) In the event that the Contractor requests written approval to furnish consolidated reports under paragraph (b) above, the Contracting Officer shall promptly consider the request and furnish to the Contractor a letter stating whether or not the request is approved and, notwithstanding any such approval, the Contracting Officer shall have the right to question any such subsequently furnished report as to accuracy or completeness of data and to ask for additional information. The Contractor shall furnish a copy of such letter of approval to the Contracting Officer administering this contract.

(d) After payment of eighty percent (80%) of the amount of this contract, as from time to time amended, further payment shall be withheld until a reserve of either (i) ten percent (10%) of such amount or (ii) \$5,000, whichever is less, shall have been set aside, such reserve or the balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer the report called for by paragraph (a) hereof or the copy of the letter approving the Contractor's request to furnish the report under paragraph (b); PROVIDED that no amount shall continue to be withheld from payment for the causes specified in this paragraph (d) if the Contracting Officer shall find that the Contractor has not been furnished a letter as required by paragraph (c) within a reasonable time after making written request to submit a single, consolidated report under the provisions of paragraph (b) of this clause; and PROVIDED FURTHER that the Contracting Officer may, in his discretion, order payment to be withheld in the amount and manner above provided if the report called for by paragraph (a) is unsatisfactory or if the report called for by paragraph (b) is due but has not been received, or if received, is found to be unsatisfactory. No amount shall be withheld under this paragraph when the minimum amount specified by this paragraph is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any right accruing to the Government under this contract.

27. EMPLOYMENT OF ALIENS

If this contract calls for furnishing or constructing aircraft, aircraft parts, or aeronautical accessories, no aliens employed by the Contractor shall be permitted to have access to the plans or specifications, or the work under construction, or to participate in the contract trials, without the written consent beforehand of the Secretary or his duly authorized representative.

28. MILITARY SECURITY REQUIREMENTS

(a) The provisions of this clause shall apply to the extent that this contract involves access to security information classified "Top Secret," "Secret," or "Confidential."

(b) The Government shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254) and Appendage thereto (DD Form 254-1).

(c) To the extent the Government has indicated as of the date of this contract, or thereafter indicates, security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of (i) the Department of Defense Industrial Security Manual for Safeguarding Classified Security Information as in effect on date of this contract, which Manual is hereby incorporated by reference and made a part of this contract, (ii) any amendments to said Manual required by the demands of national security as determined by the Government and made after the date of this contract, notice of which has been furnished to the Contractor by the Contracting Officer, and (iii) those provisions of written agreements entered into by the parties pertaining to the adaptation of the Manual to the Contractor's business.

(d) Designated representatives of the Government responsible for inspection pertaining to industrial security shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the requirements of the terms and conditions of this clause. Should the Government, through its authorized representative, determine that the Contractor has not complied with such requirements, the Government shall inform the Contractor in writing of the proper actions to be taken in order to effect compliance with such requirements.

(e) If, subsequent to the date of this contract, the security classifications or requirements under this contract are changed by the Government as provided in this clause and the security costs under this contract are thereby increased or decreased, the contract price shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the clause in this contract entitled "Changes."

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified security information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding the last sentence of paragraph (e) of this clause.

(g) The Contractor also agrees that it shall determine that any subcontractor proposed by it for the furnishing of supplies and services which will involve access to classified security information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified security information.

29. DELAY IN DELIVERY OF DATA

(a) It is understood that the efficient use by the Government of the supplies called for hereunder requires that the data called for hereunder be delivered not later than the time or respective times herein specified. If such data are not delivered at said time or times, the Government may at its election, so long as such data remain undelivered, unless the delay in delivery thereof arises out of causes beyond the control and without the fault or negligence of the Contractor within the meaning of the clause hereof entitled "Default," withhold payment to the Contractor's vouchers of the amounts then due, refuse approval of the Contractor's vouchers and refuse to accept further deliveries hereunder from the Contractor or take any other action authorized by law or regulation now or hereafter in effect including termination of the contract for default to the extent and in the manner authorized by said clause, and may take any or all of the foregoing actions separately or in combination.

(b) The provisions of this clause shall only be applicable to technical data, such as handbooks, service manuals, or other information necessary for the proper maintenance or servicing of the end items called for herein.

30. COPYRIGHT

(a) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents and employees acting within the scope of their official duties, (i) a royalty-free, nonexclusive and irrevocable license to reproduce, translate, publish, use and dispose of, and to authorize others so to do, all copyrightable material first produced or composed and delivered to the Government under this contract by the Contractor, its employees or any individual or concern specifically employed or assigned to originate and prepare such material; and (ii) a license as aforesaid under any and all copyrighted or copyrightable work not first produced or composed by the Contractor in the performance of this contract but which is incorporated in the material furnished under the contract, provided that such license shall be only to the extent the Contractor now has, or prior to completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(b) The Contractor agrees that it will exert all reasonable effort to advise the Contracting Officer at the time of delivering any copyrightable or copyrighted work furnished under this contract, of any adversely held copyrighted or copyrightable material incorporated in any such work and of any invasion of the right of privacy therein contained.

(c) The Contractor agrees to report to the Contracting Officer, promptly and in reasonable written detail, any notice or claim of copy-right infringement received by the Contractor with respect to any material delivered under this contract.

31. FILING OF PATENT APPLICATIONS

(a) While and so long as the subject matter of this contract is classified "Secret" or higher, the Contractor agrees that, before filing or causing to be filed a patent application disclosing any of said subject matter, it will refer the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be kept secret or the issuance of a patent thereunder otherwise delayed, under pertinent statutes or regulations; and the Contractor agrees to observe any instructions given by the Contracting Officer in this regard, which instructions may include a direction not to file such application so long as the Contracting Officer considers that such filing would jeopardize national security. If the Contracting Officer directs the Contractor not to file such application, the Contractor may submit to the Contracting Officer a written request, addressed to the Secretary, for reconsideration of such direction, but pending action by the Secretary, the Contractor shall observe such instruction.

(b) While and so long as the subject matter of this contract is classified "Confidential", the Contractor agrees to furnish to the Contracting Officer, at the time of or prior to filing or causing to be filed a patent application disclosing any of said subject matter, a copy of such application for determination whether, for reasons of national security, such application should be kept secret or the issuance of a patent thereunder otherwise delayed, under pertinent statutes or regulations; and the Contractor agrees to observe any instructions of the Contracting Officer in this regard.

32. PATENT RIGHTS

(a) As used in this clause, the following terms shall have the meanings set forth below:

(i) The term "Subject Invention" means any invention, improvement or discovery (whether or not patentable) conceived or first actually reduced to practice (unless disclosed in a patent application filed prior to beginning the performances hereinafter set forth) either (A) in the performance of the experimental, developmental or research work called for under this contract, or (B) in the performance of any experimental, developmental or research work relating to the subject matter of this contract which was done upon the understanding that a contract would be awarded.

(ii) The term "Technical Personnel" means any person employed by or working under contract with the Contractor (other than a subcontractor whose responsibilities with respect to rights accruing to the Government in inventions arising under subcontracts are set forth in paragraph (f) of this clause), provided that such person, by reason of the nature of his duties in connection with the performance of this contract, would reasonably be expected to make inventions.

(iii) The terms "subcontract" and "subcontractor" mean any subcontract or subcontractor of the Contractor, and any lower-tier subcontract or subcontractor under this contract.

(b) The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, nontransferable and royalty-free license to practice, and cause to be practiced for the Government throughout the world, each Subject Invention in the manufacture, use and disposition according to law, of any article or material, and in the use of any method; PROVIDED, HOWEVER, That with respect to (i) any Subject Invention made by other than Technical Personnel, (ii) any Subject Invention conceived prior to any performance of this contract as set forth in paragraph (a) above but first actually reduced to practice in the course of any such performance, and (iii) the practice of any Subject Invention in foreign countries, the said license and other rights hereinafter provided shall be to the extent of the Contractor's right to grant the same without incurring any obligation to pay royalties or other compensation to others solely on account of said grant. Nothing contained in this paragraph shall be deemed to grant any license under any invention other than a Subject Invention. Any license granted herein shall not convey any right to the Government to manufacture, have manufactured or use any Subject Invention for the purpose of providing services or supplies to the general public in competition with the Contractor or the Contractor's commercial licenses in the licensed fields.

(c) The Contractor agrees as follows: (i) to make written disclosure promptly to the Contracting Officer of each Subject Invention which reasonably appears to be patentable and to exert all reasonable effort to make such disclosure not later than six months after first publication, public use or sale; (ii) to specify, at the time of such disclosure, whether or not said Subject Invention has been or will be claimed in a United States patent application and unless it thereafter notifies the Government to the contrary not later than eight (8) months after first publication, public use or sale, to file or cause to be filed in due form and time a United States patent application covering each Subject Invention so specified; (iii) to the extent of the Contractor's right to do so, to deliver to the Contracting Officer such duly executed instruments (prepared by the Government) of assignment, application papers and rightful oaths as are necessary to vest in the Government the sole and exclusive ownership of, and the right to apply for and prosecute patent applications covering each Subject Invention which the Contractor does not specify as aforesaid (or having so specified, thereafter notifies the Government to the contrary), subject, however, to the reservation of a nonexclusive and royalty-free license thereunder to the Contractor (and to its associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part), which license shall be assignable to the successor of that part of the Contractor's business to which it pertains; (iv) to furnish promptly to the Contracting Officer on request an irrevocable power of attorney to inspect and make copies of each United States patent application as filed by or on behalf of the Contractor covering any Subject Invention; (v) in the event the Contractor elects not to continue prosecution of any such United States patent application filed by the Contractor, to so notify the Contracting Officer not less than sixty (60) days before the expiration of the response period, and upon written request, to deliver to the Contracting Officer, to the extent of the Contractor's right to do so, a duly executed assignment to the Government of the entire rights to such patent application and any Subject Invention claimed therein subject to a reservation as specified in (iii) above; and (vi) to deliver to the Contracting

Officer duly executed instruments fully confirmatory of any license rights herein agreed to be granted to the Government. If, to the best of the Contractor's knowledge and belief, no inventions have been conceived or first actually reduced to practice under this contract, the Contractor shall so certify to the Contracting Officer.

(d) The Contractor agrees to and does hereby grant to the Government, to the full extent of the Contractor's right to do so without payment of compensation to others, the right to reproduce, use and disclose for governmental purposes (including the right to give to foreign governments for their use as the national interest of the United States may demand) all or any part of the reports, drawings, blueprints, data and technical information specified to be delivered by the Contractor to the Government under this contract; PROVIDED, however, that nothing contained in this paragraph shall be deemed, directly or by implication, to grant any license under any patent now or hereafter issued or to grant any right to reproduce anything else called for by this contract.

(e) Until the Contractor has delivered to the Government the disclosures required by paragraph (c) of this clause and the information as to any subcontractor required by paragraph (g) of this clause, there shall be withheld from final payment under this contract ten percent (10%) of the contract price or \$5,000, whichever is smaller; PROVIDED, however, that the withholding of the aforesaid amount, or subsequent payment thereof to the Contractor, shall not be construed as a waiver of any rights accruing to the Government under this contract; and PROVIDED further, that any amount so withheld under this paragraph shall not be in addition to any amounts withheld under other provisions of this contract. This paragraph shall not be construed as requiring the Contractor to withhold any amount from a subcontractor to enforce compliance with the patent provisions of a subcontract.

(f) The Contractor agrees to exert all reasonable effort to negotiate for the inclusion in any subcontract hereunder of \$3,000 or more, in which payment is to be made for experimental, developmental or research work, of this patent rights clause or one approved by the Contracting Officer. In the event of refusal by a subcontractor to accept such patent rights clause, the Contractor shall obtain the written authorization of the Contracting Officer (which authorization may be granted with respect to a particular subcontract) to proceed with the subcontract, and shall cooperate with the Government in the negotiation with such subcontractor of a mutually acceptable patent rights clause; PROVIDED, however, that the Contractor shall in any event require the subcontractor to grant to the Government patent rights under Subject Inventions of no less scope and on no less favorable terms than those which the Contractor has under such subcontracts, except that in no event shall the subcontractor be required to grant to the Government patent rights in excess of those herein agreed to be granted to the Government by the Contractor.

(g) The Contractor agrees to notify the Contracting Officer in writing of any subcontract containing a patent rights clause to furnish to the Contracting Officer a copy of such clause, and promptly to notify the Contracting Officer when such subcontract is completed. It is understood that with respect to such subcontract clause, the Government is a third party beneficiary; and the Contractor hereby assigns to the Government all the rights that the Contractor would have to enforce the obligations of the subcontractor with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to a patent rights clause in any subcontract.

(h) When the Contractor shows that it has been delayed in the performance of this contract by reason of its inability to obtain, under reasonable terms that include a suitable patent rights clause, a qualified subcontractor for any particular part, item or function of this contract for which the Contractor itself does not have available facilities or qualified personnel, the Contractor's delivery dates shall be extended for a period of time equal to the duration of such delay; and, upon request of the Contractor, the Contracting Officer shall determine to what extent if any, and additional extension of the delivery dates, and an increase in contract price based upon additional costs incurred, are proper under the circumstances; and the contract shall be modified accordingly. If the Contractor, after exerting all reasonable effort, is unable to obtain a qualified subcontractor as set forth above, the Contractor may submit to the Contracting Officer a written request for waiver or modification of the requirement that a suitable patent rights clause be included in the subcontract. Such request shall specifically state that the Contractor has used all reasonable efforts to obtain such qualified subcontractor and shall cite the waiver or termination provision hereinafter set forth. If, within thirty-five (35) days after the date of receipt of such request for a waiver or modification of said requirement shall be deemed to have been waived by the Government. If within such period the Contractor shall receive a written denial of such request by the Contracting Officer, this contract shall thereupon automatically terminate and the rights and obligations of the parties shall be governed by the provisions of the clause of this contract entitled "Termination for the Convenience of the Government" just as if a notice of termination had been delivered to the Contractor specifying that the Contract was terminated for the convenience of the Government.

(i) Notwithstanding the requirements of subparagraphs (f) and (h) of this clause, the Contractor shall not be required to negotiate for inclusion of this patent rights clause in any subcontract issued hereunder whenever such negotiations would jeopardize or conflict with security considerations established in connection with this contract. When, for reasons of security, the Contractor exercises the exception allowed by this subparagraph with respect to inclusion of standard government patent rights language in any subcontract, the Contractor shall obtain in lieu thereof, in such contracts, patent rights agreements of the type and scope representative of standard commercial practices in this regard followed by the Contractor and the subcontractors involved.

33. FURNISHING OF MATERIALS OR SUPPLIES AT THE GOVERNMENT'S OPTION

The Government may at its option from time to time furnish the Contractor with materials or supplies not obtainable in the open market and which are required by the Contractor for the performance of this contract. In such event, an equitable reduction in the contract price shall be made prior to the delivery of such materials or supplies to the Contractor, or as soon thereafter as possible, but in no event later than thirty (30) days after such delivery.

34. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress to bring about the greatest utilization of small business concerns which is consistent with efficient production.

(b) The Contractor agrees to accomplish the maximum amount of sub-contracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

35. SHIPMENTS

(a) Mode of Shipment - Unless otherwise provided in the contract or unless the Contracting Officer, acting under the "Changes" clause hereof, directs in writing otherwise, all supplies to be furnished under this contract shall be delivered to the Government f.o.b. cars or carrier's equipment at the Contractor's or subcontractor's plant or plants (or point or points nearest thereto that rail carrier service is available). If the Contracting Officer directs in writing that any of the supplies to be furnished hereunder be shipped other than by rail, the Contractor shall be reimbursed for transportation costs incurred in transporting such supplies from the plant to the designated carrier.

(b) F. O. B. Carrier's Equipment - Whenever it is provided in this contract that supplies called for under this contract shall be delivered to the Government, F. O. B. Contractor's plant, any shipment occupying sufficient space in a railroad car to constitute a carload shipment subject to carload freight rates shall be properly and adequately loaded in freight cars by the Contractor and any shipment subject to less-than-carload freight rates shall be delivered by the Contractor into the carrier's possession at the Contractor's plant, or at the point or points nearest thereto at which delivery can be effected. All said shipments shall be made on Government bills of lading and the Contractor shall make application therefor on the form, and to the Transportation Office, designated by the Administrative Office shown on the cover page hereof. In inserting descriptions in Government bills of lading, the Contractor shall comply with the rules and provisions of the freight classifications and tariffs of the carrier or carriers involved.

(c) F. O. B. Destination - Whenever it is provided in this contract that supplies shall be delivered f.o.b. specified destinations, such supplies shall be shipped direct by the Contractor to the specified destinations on commercial bills of lading, at the expense of the Contractor.

(d) Shipping Instructions - If not otherwise provided herein, names of consignees of all supplies to be delivered by the Contractor hereunder will be furnished to the Contractor in writing by the Contracting Officer at a later date. Request therefor shall be made to such address as the Contracting Officer may direct, not later than thirty (30) days prior to the date on which any of the articles are ready for shipment.

(e) Notice of Shipments - At the time of delivery of any shipment of supplies to a carrier for transportation, the Contractor shall give prepaid notice of shipment to the consignee establishment, and to such other persons or installations designated by the Contracting Officer, in accordance with instructions of the Contracting Officer. If such instructions have not been received by the Contractor at least 24 hours prior to such delivery to a carrier, the Contractor shall request instructions from the Contracting Officer concerning the notice of shipment to be given.

(f) Computation of Delivery Time - For the purpose of determining the fulfillment of this contract so far as delivery dates are concerned, in the event the delivery point or points are not the same as the point or points of

destination, the time of delivery of the supplies shall be the date of delivery to the carrier ready for shipment to destination.

(g) Shipments by the Government - Whenever any articles, supplies, or other items are delivered by the Government to the Contractor, unless otherwise provided herein, they shall be delivered to the Contractor, f.o.b. cars or carrier's equipment at the plants of Contractor or the point or points nearest thereto that rail carrier service is available.

36. EXAMINATION OF RECORDS

The Contractor agrees that the Contracting Officer or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract, including sub-contracts hereunder.

37. RENEGOTIATION

This contract shall not be subject either to the provisions of the Vinson-Trammell Act as amended and extended (34 U. S. Code 496, and 10 U.S. Code 311) or to any other act of the Congress, whether heretofore or hereafter enacted, providing for the renegotiation of Government contracts.